

**ZONING BOARD OF APPEALS  
TOWN OF LEWISBORO  
MINUTES**

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, August 28, 2013 at 7:30 p.m., at the Town of Lewisboro Offices at Orchard Square, Cross River, New York 10518

Board Members: Present: Carolyn Mandelker, Acting Chairwoman  
Jason Krellenstein  
Robin Price, Jr.

Absent: Geoffrey Egginton, Chairman  
Thomas Casper

Also Present: Aimee Hodges, ZBA Secretary

\*\*\*\*\*

The Meeting was called to order at 7:40 P.M. Mrs. Mandelker introduced the members of the Board and noted the emergency exits. She announced that the next ZBA meeting will be Wednesday, September 25<sup>th</sup> with a site walk scheduled for Saturday, September 21, 2013.

**I. Review and adoption of the Minutes of July 31, 2013**

As there was not a quorum, the Board was unable to adopt the minutes of July 31<sup>st</sup>.

**II. REQUESTS FOR EXTENSION OF TIME**

**CAL. NO. 16-12-BZ**

**Application of Eva Doukakis and Robert Cisneros, 114 East Street, South Salem, NY 10590 for [1] a variance of Article III § 220-9D (2) and [2] Article IV § 220-23E of the Zoning Ordinance in the matter of an increase in non-conformity other than use due to the proposed construction of an addition that will be closer to the side lot line (proposed 22' where 30' is required) in an R-1A, One Acre Residential District.**

**The property is located on the east side of East Street, designated on the Tax Map as Sheet 51, Block 9838, Lot 09, in an R-1A, One Acre Residential District.**

The Board acknowledged receipt of the July 12, 2013 request of Rob Cisneros and Eva Doukakis and the follow up correspondence dated August 20, 2013 for an extension of time to the resolution dated August 29, 2013.

Mr. Krellenstein noted that the letter received indicated that there had been financial hardships; this Board had previously granted an extension for financial hardships. The letter also suggests that the applicant had been working to receive wetland activity permit approval. Both suggest diligence on the part of the applicant.

Mr. Krellenstein moved to grant a one year extension of time to the variance granted by resolution dated August 29, 2012 to Rob Cisneros and Eva Doukakis. The motion was seconded by Mr. Price; In Favor:

Mr. Krellenstein, Mr. Price and Mrs. Mandelker. Absent: Chairman Egginton and Mr. Casper. To Deny: None.

**CAL. NO. 09-12-BZ/SP**

**Application of Homeland Towers LLC/ New Cingular Wireless PCS, LLC (AT & T) as co-Applicant, 46 Mill Plain Road, Danbury, CT 06811 [Owner of Record: Ash Tree Development LLC, 36 Sylvan Lake Road, Hopewell Junction, NY 12533] [Property Location: 117 Waccabuc Road, Golden's Bridge, NY 10526 [1] a variance of Article V, §220-41.1E (1) of the Zoning Ordinance in the matter of the proposed 154' tall monopole with antennas that will exceed the 120' height limitation for all towers, antenna towers and monopoles and [2] a variance of Article V, §220-41.1E (4) of the Zoning Ordinance in the matter of the proposed rear yard tower setback of 118' where 204' is required and the proposed front yard tower setback of 71' where 204' is required and [3] a variance of Article III §220-11 of the Zoning Ordinance and [4] a variance of §280A of the Town Law in the matter of the lot which does not have frontage on a road which is improved to the satisfaction of the Town.**

**The property is located on the north side of Waccabuc Road, designated on the Tax Map as Sheet 11, Block 11137, Lot 52, in an R-4A, Four-Acre Residential District.**

Manuel Vicente, Homeland Towers was present.

The Board acknowledged receipt of the July 25, 2013 request of Vincent Xavier, Homeland Towers, LLC, Site Development Manager requesting an extension to the expiration of the variances granted by resolution dated August 9, 2012 for a period of six months.

Mr. Vicente advised that the applicant was before the Planning Board for final Special Use Permit and Wetland Activity Permit approvals in December 2012. In May 2013 the applicant received approvals from the NYSDEC and Army Corps of Engineers. The applicant then began working on the conditions and the final plans to be signed by the Planning Board and coordinated the signing of these plans by six different parties. An application for a building permit has been filed with the Building Department; there are two remaining conditions to be met and it is hoped that these conditions will be met and delivered to the Building Department and Jan Johannessen, the Town's planning consultant, this week. He noted that the Planning Board approval will expire September 9<sup>th</sup>, and a request has been made for an extension. He believed that a six month extension would be adequate as the applicant's intention is to begin construction as soon as the building permit is received.

Mr. Krellenstein referred to the July 25, 2013 correspondence addressed to the applicant from the Planning Board confirming an extension to satisfy the remaining conditions of the Planning Board's approval dated after the ZBA's resolution which implied to him that the applicant had been working diligently.

Mr. Krellenstein moved to grant a six month extension of time to the variances granted by resolution dated August 9, 2013 to Homeland Towers, LLC/New Cingular Wireless, PCS, LLC (AT&T) as co-Applicant. The motion was seconded by Mr. Price; In Favor: Mr. Krellenstein, Mr. Price and Mrs. Mandelker. Absent: Chairman Egginton and Mr. Casper. To Deny: None.

**CAL. NO. 13-12-BZ**

**Application of the Lewisboro Library, 15 Main Street, South Salem, NY 10590 for [1] a variance of Article V, §220-35B of the Zoning Ordinance in the matter of the building coverage exceeding the**

**20% maximum building coverage permitted, where 27.1% is proposed; [2] a variance of Article V, §220-35C of the Zoning Ordinance in the matter of the proposed addition that will be closer to the side yard setback (proposed 15' where 60' is required) than permitted; and [3] a variance of Article V, §220-35C of the Zoning Ordinance in the matter of the proposed addition that will be closer to the rear yard setback (proposed 6' where 60' is required) than permitted; [4] a variance of Article V, §220-15B (1) (7) for a 30' landscape buffer which may be waived by the Planning Board.**

**The property is located on the east side of Main Street, designated on the Tax Map as Sheet 36, Block 10807, Lot 41, in an R-½A, Half-Acre Residential District.**

Donald MacDonald, architect was present.

The Board acknowledged receipt of the August 12, 2013 request of John M. Watson, P.E., Vice President/Senior Project Manager of Insite Engineering, Surveying & Landscape Architecture, P.C. for an extension of time to the resolution dated August 14, 2012.

Mr. Krellenstein noted that based on the application and the letter from Insite Engineering, the applicant had received conditional Special Permit and Wetland Activity Permit approval from the Planning Board and has met all but one condition of that approval, which suggests that the applicant has been working diligently. For this reason, Mr. Krellenstein proposed that the variance be extended for a period of one year.

Mr. Krellenstein moved to grant a one year extension of time to the variances granted by resolution dated August 14, 2013 to the Lewisboro Library Association. The motion was seconded by Mr. Price; In Favor: Mr. Krellenstein, Mr. Price and Mrs. Mandelker. Absent: Chairman Egginton and Mr. Casper. To Deny: None.

### **III. PUBLIC HEARINGS**

#### **CAL. NO. 29-13-BZ**

**Application of Virginia Anne Collier & Elizabeth Ann Lake, 6 Scenic Drive, South Salem, New York 10590, [Owner of Record: Virginia Anne Collier, 6 Scenic Drive, South Salem, New York 10590] for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of a proposed generator that will be closer to the side lot line (25'.7" where 30' is required) in an R-1A, One-Acre Residential District.**

**The property is located on the west side of (#6) Scenic Drive, designated on the Tax Map as Sheet 49B, Block 9831, Lot 63, in an R-1A, One-Acre Residential District.**

Virginia Anne Collier was present.

Ms. Collier noted that it had been represented to them by Robison Oil, that the generator they are looking to install is very quiet. She provided an e-mail dated August 27, 2013 from the neighboring property owners to the south, Jolie Fierro and Nicholas Borowitz indicating that they had no objections to the installation of the generator. Ms. Collier advised that the previous homeowner had a generator in the same location and the neighbors advised that they had never had any problems with the generator in that location. She advised that the alternate location the installers were considering was in the backyard in direct view of a large picture window. Their preferred location is the side yard.

Mr. Krellenstein noted that although there are alternate locations, the variance being sought is small from his perspective and as long as the neighbor does not mind the location proposed, he was okay with it.

Mrs. Mandelker acknowledged receipt of the e-mail from the neighbors. She asked whether there were any objections to the notice as printed in the Lewisboro Ledger; there were none.

Mrs. Mandelker advised that the Board had visited the site on Saturday, August 24<sup>th</sup>. It appeared to the Board that the variance being sought is minimal. The Board also took note that there had been a generator in the location before. She did not see any problem with the request.

Mr. Krellenstein moved to approve the application as presented for the following reasons:

- There is no undesirable change to the neighborhood or detriment to any nearby properties.
- Although there may be an alternative, from a practical standpoint, the proposed location is acceptable.
- The variance being sought is not substantial.
- There would be no adverse effect or impact on the physical or environmental conditions on the neighborhood or district.
- It is not believed that the difficulty is self-created.

Mr. Price seconded the motion; In Favor: Krellenstein, Price, Mandelker. Absent: Chairman Egginton and Mr. Casper. To Deny: None.

#### **CAL. NO. 30-13-SP**

**Application of Frank and Elizabeth Cunniffe, 77 Elmwood Road, South Salem, NY 10590 for a renewal of a Special Permit pursuant to Article IV § 220-23(A)(6) of the Zoning Ordinance in the matter of the continued operation of a horse training academy [Whipstick Farm].**

**The property is located on the east side of Elmwood Road, designated on the Tax Map as Sheet 44, Block 10057, Lots 3, 4, 98 and 99 in an R-4A, Four-Acre Residential District**

Frank Cunniffe was present.

There were no objections to the Notice of Public Hearing as published in the Lewisboro Ledger.

Mr. Cunniffe advised that the application was submitted for the continuation of the equestrian facility that they have been running since 1990; the Special Permit has been granted every five years. The Building Inspector came out to inspect the site last week; everything was well kept and acceptable.

Mr. Price advised that he would be abstaining from voting on this application. Given that there was not a quorum to vote on this application this evening, the matter was moved to the September 25<sup>th</sup> agenda. Mr. Cunniffe was advised that he need not be present.

#### **CAL. NO. 28-13-BZ**

**Application of Christopher S. Moomaw, Architect, P. O. Box 1014, Ridgefield, CT 06877, [Owner of Record: Bradford P. Craighead, 20 Mill River Road, South Salem, New York 10590] for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of a proposed family room/porch addition that will be closer to the side lot line (22'.7" where 50' is required) in an R-4A, Four-Acre Residential District.**

**The property is located on the west side of (#20) Mill River Road, designated on the Tax Map as Sheet 43, Block 10263, Lot 6, in an R-4A, Four-Acre Residential District.**

Bradford Craighead was present with the project architect, Christopher S. Moomaw.

There were no objections to the Notice of Public Hearing as published in the Lewisboro Ledger.

Mr. Moomaw displayed the proposed site plan and distributed copies to the Board illustrating the location of the residence, addition and setbacks on the property. He described the hardship as being unique in terms of the site geometry versus the location of the house whose construction predated zoning and a portion built in 1723 built entirely within the required 50 foot front yard setback. He reviewed the addition proposed in the northwest corner; he noted that the only place to add on to the residence outside of the setbacks is adjacent to the existing sun porch that overlooks the rear yard and therefore is unacceptable because it would block the view. In addition, the land to the south drops virtually a full story. He further advised that his client would like to keep the south elevation's eighteenth century appearance in tact.

Mr. Moomaw reviewed the floor plan noting how the setback line impacts the house. It is his belief that the proposed addition works best with the flow of the house.

Mr. Krellenstein questioned why one variance had been requested. Although the addition to the north follows the same line as the existing structure, it is 39'.9" from the side yard line. He sees an increase in non-conformity. He noted that it appeared that this addition would be wedged into the property, further noting that the neighboring property has a structure directly over the property line. Mr. Krellenstein stated that there should be three variances being sought.

Mrs. Mandelker advised that four members visited the site on Saturday, August 24<sup>th</sup>, and noted that the neighbor has two structures which appeared to be located right on the side yard property line. The northwest corner of the addition is proposed to be 22'.7" from the property line; there is a cottage right up against the property line hidden by a large tree, which would make it difficult to maneuver. When walking the property she was curious as to why the applicant would not consider building an extension towards the front where there is more room.

Mr. Moomaw advised that they have discussed certain landscaping features that improve the entry experience. His belief is that the proposed family room participates more with backyard activities rather than with front yard activities.

Mr. Craighead believed that an addition to the front would compromise how the structure would look from the street. He is trying to create an entry way in the front rather than having visitors entering from the rear. The cottage and barn were a part of the property prior to the subdivision that occurred many years ago.

Mrs. Mandelker questioned why the family room could not be built off the kitchen area, which would move the porch away from the corner.

Mr. Moomaw reviewed the floor plan and emphasized the connection of the inside space to the backyard space which is an important feature to his client which they wished to preserve. He reviewed the site plan and noted that moving the addition off the kitchen would not significantly change the proximity to the cottage.

Mr. Craighead noted that the proposed addition is small.

Mr. Krellenstein noted that while the addition may be small, the variance in terms of math is large. The property is relatively large, and the addition is entirely within the setback. He conceded that it would be hard to put an addition on the house without being partially within the setback.

Mr. Moomaw agreed that although the property is a six acre site, one must look at the geometry of the property and consider that you are dealing with an early eighteenth century structure. The line was moved closer to the existing house in 1986 when the parcel was subdivided. He questioned whether they must in some way damage the features of this house. He believed that they have demonstrated a unique hardship.

Mrs. Mandelker advised that she did not see an extreme hardship as she could not understand why that there is not a practical alternative. She advised that if the Board voted tonight, she would probably deny the variance. She noted the absence of two members, and believed that there is a question as to how many variances are required. She believed that it might be better to hold this application over as there are too many questions and she would like the other members to weigh in. She suggested that the applicant get a letter from the adjacent property owner.

Mr. Krellenstein advised that the application should be amended to include the other two variances. He noted that he saw two dimensions that are not in conformance. In addition, the property is not conforming now and the applicant is looking to increase the non-conformity. He noted that he was not privy to Mr. Moomaw's conversations with the Building Inspector and does not know what his views are. He suggested that he consult with the Building Inspector if he would like him to weigh in.

Mrs. Mandelker noted the existing stone walk and questioned what was being proposed. She noted that the applicant did not want to consider an addition to the front because it would interfere with the entrance plan.

Mr. Craighead described a "Williamsburg" type of cutting garden with a picket fence.

Mrs. Mandelker noted that she was still not convinced that moving the addition to the front is not a mistake.

Mr. Craighead stated that he is trying to improve the curb appeal to the house. He noted that the proposed porch is orientated away from the cottage and towards the vista in the rear yard. Mr. Craighead believed that if the addition was to the front that he would lose the aesthetics and architectural value of the cutting garden. He noted that they never use the front entrance and he is trying to reorient traffic from the rear kitchen door to the front entrance.

Mrs. Mandelker suggested that the application be held over to the September 25<sup>th</sup> agenda. Should the applicant desire to amend the application, the Secretary will republish the hearing notice.

**THE PUBLIC HEARING IS HELD OPEN.**

Mr. Krellenstein moved to adjourn the meeting at 8:35 P.M. The motion was seconded by Mrs. Mandelker; In Favor: Mr. Krellenstein, Mr. Price and Mrs. Mandelker. Absent: Chairman Egginton and Mr. Casper.

Respectfully submitted,

Aimee M. Hodges  
Secretary, Zoning Board of Appeals